

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Joseph Viscomi and First Destiny Real
Estate, Inc.,

Plaintiffs,

-v.-

5:08-CV-0327
(NPM)

Excelsior Insurance Company,

Defendant.

Plaintiffs:

Joseph Viscomi
12 Leitch Avenue
Skaneateles, NY 13152

Pro se

First Destiny Real Estate, Inc.

No appearance

Attorneys for Defendant
Excelsior Insurance Company:

Mura & Storm LLP
14 Lafayette Square
930 Rand Building
Buffalo, NY 14203

Roy A. Mura, Esq.
Scott D. Storm, Esq.

Neal P. McCurn, Senior District Judge

SUMMARY ORDER

Presently before the court is a letter from plaintiff Joseph Viscomi (“Viscomi”) who is now appearing *pro se*, wherein he seeks clarification of an order of Honorable Andrew T. Baxter, Magistrate Judge and petitions the court to “reopen [his] case.” Dkt.

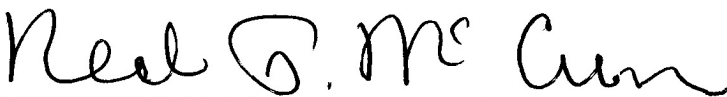
No. 78.

Viscomi seeks clarification of that portion of Magistrate Judge Baxter's March 26, 2010 Order which addresses whether Viscomi may represent co-plaintiff First Destiny Real Estate, Inc. in this matter going forward. By said Order, Magistrate Judge Baxter granted a motion by attorney Charles Falgiatano to withdraw as attorney for plaintiffs Viscomi and First Destiny Real Estate, Inc. See Dkt. No. 77. Magistrate Judge Baxter explicitly stated that "[w]hile Mr. Viscomi can represent himself in this action going forward, First Destiny Real Estate, Inc. is an entity and therefore must be represented by counsel in order for it to proceed in this case." Id., at 3, n.1 (citing Lattanzio v. COMTA, 481 F.3d 137, 139-140 (2d Cir. 2007); Eagle Assoc. v. Bank of Montreal, 926 F.2d 1305, 1308 (2d Cir. 1991)). Accordingly, Viscomi may appear in this action *pro se*, but **may not** represent plaintiff First Destiny Real Estate, Inc.

Viscomi also states that while he is "petitioning the court via this letter to reopen [his] case[, . . . he] understand[s] that a motion [] has to be filed with the court." As Viscomi's letter is not a proper motion in accordance with this court's Local Rules¹ and the Federal Rules of Civil Procedure, his request to reopen his case is denied without prejudice.

IT IS SO ORDERED.

DATED: April 28, 2010
Syracuse, New York



Neal P. McCurn
Senior U.S. District Judge

¹ Subsequent to the receipt of Viscomi's letter request, the Clerk of the Court has provided Viscomi with a copy of the Local Rules for the Northern District of New York as well as a copy of the Pro Se Handbook.